

# Employment alert

## Further economic and job protection measures in Hungary in response to the COVID-19 emergency

Update of April 29, 2020

### Extended sector-specific tax exemptions/reductions and the newly introduced wage subsidy program

The Hungarian government has announced several immediate measures aimed at mitigating the negative effects of COVID-19 on the Hungarian economy. These programs generally take the form of tax reductions or exemptions or are aimed at easing administrative requirements. They tend to apply to specific sectors. In view of the growing economic impact of COVID-19, the government has extended these measures to additional sectors, publishing the latest list of sectors on April 22, 2020. Further to the above mentioned measures, the Hungarian government has also introduced a wage subsidy program, effective as of April 29, 2020, under which employees forced to work reduced hours may receive subsidies covering their wage losses, either partially or fully.

This newsletter provides an update on the tax exemptions/reductions currently available, applicable and a summary of the newly introduced wage subsidy programs to help employers assess their eligibility for support.

### 1 Sector-specific tax exemptions and tax reductions aimed at decreasing wage costs

The government has put in place certain sector-specific tax measures, prescribing tax exemptions and tax reductions aimed at decreasing wage costs. These economic measures affect businesses operating in fields explicitly listed in various decrees.

For employers pursuing the listed business activities, the tax exemptions and reductions apply without the need to submit applications to their Tax Office or to other authorities.

Sector-specific policies affect companies undertaking the following activities as of April 22, 2020:

- taxi services;
- accommodation;
- food and beverage services;
- newspaper publishing;
- publishing of journals and periodicals;
- motion picture, video and television program production, sound recording and music publishing activities;
- programming and broadcasting activities;
- organization of conventions and trade shows;
- creative, arts and entertainment activities;
- gambling and betting activities;
- sporting, leisure and recreation activities;
- travel agency, tour operator service and related activities;
- physical well-being activities – on condition that the provider is in compliance with ministerial decree 37/1996 on the foundation and operation of public baths;
- inland passenger water transport;
- growing of other perennial or non-perennial crops – on condition that at least 30% of the employer's overall

- income of the past 6 months was achieved on the propagation of flower buds, sales of cut flowers or plants produced for weaving;
- growing of grapes;
- plant propagation – on condition that the provider is in compliance with Article 2 Section (2) of ministerial decree 45/2008 on propagation of ornamental plants;
- hunting, trapping and related service activities – on condition that the provider is in compliance with Article 50 Section (2) Point f) of Act LV of 1996 on hunting and game propagation;
- distilling, rectifying and blending of spirits – on condition that the distiller's products fall under either Point 6 or 9 of Annex II to regulation 110/2008/EC;
- wine production from grapes;
- brewing – on condition that the brewer is in compliance with Article 3 Section (3) Point 17 of Act LXVIII on excise duties;
- wholesale of flowers and plants; and
- retail sale of flowers, plants, seeds, fertilizers, pet animals and pet food in specialized stores – on condition that the provider's business activity is exclusively related to B2C sale of ornamental plants.

Furthermore, in the case of these employers, the Government has also introduced a temporary reduction of social security contributions, normally deducted from gross salaries by employers, by introducing a cap of HUF 7,710 (approximately €20) per employee for the in-kind health insurance contribution. It has also suspended the collection of pension contributions and labor market contributions.

In the case of taxpayers subject to small business tax (Hungarian abbreviation: KIVA), wage costs shall not be considered part of the tax base.

The temporary exemptions, and reductions and tax base calculation rules will apply from March to June 2020 and on condition that at least 30% of the employer's overall income of the past 6 months was realized as a result of one of the activities listed above and such activity was actually conducted as the main activity.

## 2 Wage subsidy program for employees on reduced work time

The government has finalized the conditions of its program modelled on the German "kurzarbeit" scheme, allowing employers and employees to apply for wage subsidies in order to avoid layoffs associated with COVID-19 contingency planning. An earlier version of the program was introduced on April 16 and was criticized by many employers for the significant administrative burden associated with the complex application process.

Effective as of April 29, the government has introduced a simplified procedure, increasing the amount of subsidies made available to employers and extending the scope of the scheme to include (i) remote workers and employees working from home; (ii) temporary agency workers; and (iii) employees on time banking systems.

### 2.1 State support provided under the program

For a subsidy award period of 3 months, employees may receive 70% of their net base wages (as at the date of application) corresponding to an agreed reduction of working time of 25%-85% (as from the employee's average working time calculated with reference to the 3 months preceding the date of application). The reduced working hours to be applied during the subsidy award period may not exceed the working hours as at the time of the application). If the reduced working time exceeds 50% of the working time as prior to the reduction, then 30% of the reduction (i.e. 30% of the 25%-85%) will qualify as so-called Individual Performance Improvement Time (IPIT), during which the employer should provide organized training opportunities to the employee.

IPIT must be remunerated by the employer, however, it should not be considered as a part of (the reduced) working time, but rather as hours above working time, during which the employee must be exempted from work duty, but may be required to participate in training sessions mandated by the employer. Such training sessions may be real-time or undertaken by employees on a flexible basis, whereby the employer only requests that training modules be completed by a set deadline.

When calculating the amount of subsidies payable to employees, Government Offices will not take into account that part of the base wage which exceeds double the applicable minimum wage, net of taxes. This essentially maximizes the amount payable under the wage subsidy program to HUF 112,418 (approximately € 316) per employee, monthly, net of taxes – depending on the ratio of the reduction in working time.

Awarded subsidies will be paid by Government Offices directly to employees by bank transfer on a monthly basis following each month, net of taxes.

## 2.2 Application requirements

The employer must submit a joint application to the local Government Office’s labor department for each individual employee selected for participation in the wage subsidy program. This means that employee consent continues to be a condition for reducing working time and participating in the program. If the application is successful, then the employment agreement of the employee(s) in question will be amended automatically as concerns reduced working time and – if applicable – IPIT for the duration of the subsidy award.

Employers are advised to document the changes to the terms of employment in order to address the following issues:

- Manner of providing organized training, if IPIT is applicable;
- Permissibility of parallel employment during the subsidy award period;
- Non-competition and conflict of interest rules to be applied during the subsidy award period;
- Confidentiality undertakings protecting the employer’s business secrets and proprietary information;
- Reduction in wages to be paid by employer (proportionate to decrease in working hours) and mandatory of optional top-up;
- Liability of employees to reimburse employers if required to “repay” awarded wage subsidies due to false or incomplete data submitted by the employees during the application procedure.

Employers should carefully coordinate submissions, as applications affecting employees working at the same site must be submitted on the same date and applications involving additional employees working at a site affected by a previous submission will only be processed by the authorities after the pertinent subsidy award period and retention period expire. This essentially means that employers would need to wait approximately four month before submitting applications involving additional employees working at a previously affected site.

Applications may be submitted during or not more than 1 month after the revocation of the state of emergency declared by the government. The government declared the state of emergency as of March 11, 2020, and the declaration is in effect until revoked.

## 2.3 Eligibility criteria

The decree regulating the wage subsidy program sets out a number of criteria for eligibility, some of which relate to prospective participant employers, potentially selected employees, and the jobs/positions for which wage subsidies are sought.

Employers should assess their fulfilment of eligibility criteria carefully before submitting applications, as the local Government Office may require employers to repay subsidies if they do not fully meet conditions.

Conditions for eligibility of employers	Conditions for eligibility of employees	Conditions concerning the position of participating employees
<ul style="list-style-type: none"> <li>• Not under insolvency, bankruptcy or voluntary liquidation proceedings;</li> <li>• Has operated for at least 6 months as at the date of application;</li> <li>• Not fined by the Tax and Customs Administration, the Equal Treatment Authority or labor inspectorates in the 2 years preceding the date of application;</li> <li>• Not classified, as of December 31, 2019, as an undertaking in difficulty with reference to EU regulations and implementing decree 37/2011 (III. 22.); and</li> <li>• Not awarded subsidies in respect of affected employees prior to the date of application.</li> </ul>	<ul style="list-style-type: none"> <li>• Started at employer on or before March 11, 2020 and has been on the payroll continuously ever since;</li> <li>• Not on unpaid leave;</li> <li>• Not on notice period;</li> <li>• Not under payment obligation towards labor authorities; and</li> <li>• Not on temporary reassignment within the meaning of Article 53 of the Labor Code.</li> </ul>	<ul style="list-style-type: none"> <li>• Economic reasons for the reduction in working hours of the employee are directly related to some aspect of the COVID-19 emergency (i.e.: loss of market, disruption of supply chain, decrease in demand, healthcare risks, statutory changes addressing COVID-19); and</li> <li>• Retention of the position should be considered to be in the national interest.</li> </ul>

## 2.4 Employer undertakings

Employers must undertake the following in order for their employees to be granted a subsidy award:

- Providing organized training and remuneration for IPIT, if applicable;
- Providing a top-up if reduced working hours exceed 50% of working hours as at the date of application and the participating employee's base wage (as at the date of application) exceeds twice the minimum wage;
- Not applying for subsidies in respect of participating employees during the subsidy award period and pertinent retention period;
- Not placing participating employees on unpaid leave any time during the subsidy award period;
- Retaining participating employees during the subsidy award period and one additional month after its expiry. Termination by the participating employees, or by employers for breaches is permitted, and will not trigger repayment obligations, though payment of subsidies will cease effective as of last working day;
- Not ordering participating employees to work overtime during the subsidy award period;
- Not modifying the working hours of participating employees during the subsidy award period – modifications will not trigger repayment obligations, though payment of subsidies will cease as of the effective date of the modification; and
- Not applying temporary reassignment within the meaning of Article 53 of the Labor Code as concerns participating employees during the subsidy award period.

## 2.5 Reporting obligations, public information and authority follow-up

Information on participation will not be published automatically by government authorities, but receipt of subsidies qualifies as data of public interest and accordingly is accessible upon request – excluding the personal particulars of individual participating employees.

Employers are required to notify the labor authorities of any change in conditions of employment affecting the terms of the wage subsidy award within two business days. Participating employees must submit a follow-up report on participation in the program if so requested by the labor authorities within 180 days of the expiry of the subsidy award period.

# 3 Subsidy program for R&D employees

Further to the wage subsidy program related to employees on reduced working hours, the government has also created a subsidy program to help employers keep R&D employees on payroll and continue research and development activities despite the difficulties entailed by the COVID-19 situation.

## 3.1 State support provided under the program

For a maximum subsidy award period of 3 months, R&D workers (within the meaning of Article 3 Section 15 of the Innovation Act) employed by companies applying for government support may be granted a subsidy of up to HUF 318,920 (approximately EUR 900) per month. The maximum monthly subsidy amount may be awarded to R&D employees with a gross monthly base wage of at least HUF 670,000 (approximately EUR 1,900). The monthly subsidy payable to R&D employees with lower gross monthly base wages will be calculated proportionately.

Awarded subsidies will be paid by Government Offices directly to employees by bank transfer on a monthly basis following each completed subject month, net of taxes.

The R&D subsidy may not be combined with the wage subsidy program for employees on reduced working hours, but the participation of employers applying for government support in other programs is not prohibited in every case. Thus, employers should review existing programs under which they may have received subsidy awards on a case-by-case basis, and assess whether participation in such programs excludes them from participating in the R&D subsidy or results in being granted lower subsidy award amounts.

## 3.2 Application requirements

The employer must submit an application to the local Government Office's labor department and conclude a contract with the Government Office for the receipt of the subsidies, accepting also the general terms and conditions issued by the Government Office in order to regulate the details of participation.

Prospective participating employers must outline in the application their economic situation, highlighting the difficulties they are facing as a result of COVID-19 and introducing the steps they have taken – and plan to take – in order to mitigate the negative effects of the healthcare crisis on their functioning.

Employers should carefully coordinate submissions, as applications affecting employees working at the same site may be submitted only once. Applications may be submitted during or not more than one month after the revocation of the state of emergency declared by the government, but in no event later than December 31, 2020.

## 3.3 Eligibility criteria

The decree regulating the R&D subsidy program sets out a number of criteria for eligibility, some of which relate to prospective participant employers, while others relate to potentially selected R&D employees. Fulfilment of these eligibility criteria should be carefully assessed prior to submitting applications as the local Government Office may require employers to repay subsidies if they do not fully meet the conditions.

Conditions for eligibility of employers	Conditions for eligibility of employees
<ul style="list-style-type: none"><li>• Not under insolvency, bankruptcy or voluntary liquidation proceedings;</li><li>• Has operated for at least 6 months as at the date of application;</li><li>• Not fined by the Tax and Customs Administration, the Equal Treatment Authority or labor inspectorates in the 2 years preceding the date of application;</li><li>• Not qualified, as of December 31, 2019, as an undertaking in difficulty with reference to EU regulations and implementing decree 37/2011 (III. 22.); and</li><li>• Not awarded subsidies in respect of affected employees prior to the date of application.</li></ul>	<ul style="list-style-type: none"><li>• Started at employer on or before March 11, 2020;</li><li>• Not on notice period;</li><li>• Not on temporary reassignment within the meaning of Article 53 of the Labor Code;</li><li>• Not on (remunerated or unremunerated) downtime;</li><li>• Not classified as a temporary agency worker;</li><li>• Not participating in wage subsidy program for employees on reduced working hours.</li></ul>

## 3.4 Employer undertakings

Employers must undertake the following in order for their employees to be granted an R&D subsidy award:

- Retaining participating employees during the subsidy award period and after its expiry for a period equal in duration to that of the subsidy award period. Termination by participating employees, or by employers for cause or by either of them during probation is permitted, and will not trigger repayment obligations, though payment of subsidies will cease effective as of last working day;
- Not modifying the wages of participating R&D employees during the subsidy award period and the retention period;
- Not applying temporary reassignment within the meaning of Article 53 of the Labor Code as concerns participating R&D employees during the subsidy award period; and
- Not placing participating R&D employees on remunerated or unremunerated downtime during the subsidy award period.

## 3.5 Reporting obligations, public information and authority follow-up

Information on participation will not be published automatically by the governmental authorities, but receipt of subsidies qualifies as data of public interest and accordingly is accessible upon request – excluding the personal particulars of individual employees participating in the program.

Employers are required to notify the labor authorities of any change in conditions of employment affecting the terms of the wage subsidy award within two business days.

## 4 Changes relating to benefit plans

The Government has increased the cap for the applicability of favorable personal income tax rates on benefits provided in the form of transfers to Széchenyi Holiday Cards for 2020, as well as those corresponding to each of the specific account types of such cards. Changes are indicated in the table below.

	Applicable between January 1 and April 22, 2020	Applicable between April 22 and December 31, 2020
<b>Overall annual cap</b>	HUF 450,000	HUF 800,000
<b>Annual cap for accommodations account</b>	HUF 225,000	HUF 400,000
<b>Annual cap for food and beverages account</b>	HUF 150,000	HUF 265,000
<b>Annual cap for recreational account</b>	HUF 75,000	HUF 135,000

Further to the above, the government also exempted benefits provided in the form of transfers to Széchenyi Recreational Cards from payment of social contributions paid between April 22 and June 30.

In view of the changes above, Employers should review their benefit plans and consider whether they need to apply changed transfer amounts. Employers may also want to allow employees to reconsider the allocation of sums between available benefit forms in view of the above mentioned statutory changes.

## 5 Introduction or extension of time banking schemes

Employers may introduce time banking schemes with a reference period of up to 24 months or extend the reference periods of time banking schemes introduced before April 10, 2020 by 24 months. Normally, reference periods exceeding 6 months are only permitted if sanctioned by a collective bargaining agreement concluded with a representative Trade Union. Such an introduction/extension must be communicated to employees before the state of emergency is revoked by the government.

Such an introduction/extension may be used even when a collective bargaining agreement disallows a unilateral introduction/extension by the employer.

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## Contacts



**Anita Horváth**  
Partner  
E: [anita.horvath@dentons.com](mailto:anita.horvath@dentons.com)



**Gábor Velkey**  
Associate  
E: [gabor.velkey@dentons.com](mailto:gabor.velkey@dentons.com)

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### **Dentons**

1061 Budapest  
Andrássy út 11.  
T +36 1 488 5200  
F +36 1 488 5299